

Senate Amendment 3363

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1 1 Amend Senate File 554, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, by inserting after line 29 the
1 4 following:
1 5 <____. "Franchise fee" means the fee imposed under
1 6 section 477A.7.>
1 7 #2. Page 2, line 1, by inserting after the word
1 8 <jurisdiction.> the following: <Gross revenues are
1 9 limited to the following:
1 10 (1) Recurring charges for cable service or video
1 11 service.
1 12 (2) Event-based charges for cable service or video
1 13 service, including but not limited to pay-per-view and
1 14 video-on-demand charges.
1 15 (3) Rental of set-top boxes and other cable
1 16 service or video service equipment.
1 17 (4) Service charges related to the provision of
1 18 cable service or video service, including but not
1 19 limited to activation, installation, and repair
1 20 charges.
1 21 (5) Administrative charges related to the
1 22 provision of cable service or video service, including
1 23 but not limited to service order and service
1 24 termination charges.
1 25 (6) A pro rata portion of all revenue derived,
1 26 less refunds, rebates, or discounts, by a cable
1 27 service provider or a video service provider for
1 28 advertising over the cable service or video service
1 29 network to subscribers within the franchise area where
1 30 the numerator is the number of subscribers within the
1 31 franchise area, and the denominator is the total
1 32 number of subscribers reached by such advertising.
1 33 This subparagraph applies only to municipalities that
1 34 include this provision in their franchise agreements
1 35 as of January 1, 2007.>
1 36 #3. Page 2, lines 17 and 18, by striking the words
1 37 <revenue received in connection with advertising,>.
1 38 #4. Page 3, by inserting after line 25 the
1 39 following:
1 40 <(14) Late payment charges.
1 41 (15) Maintenance charges.>
1 42 #5. Page 3, line 28, by striking the word <July>
1 43 and inserting the following: <January>.
1 44 #6. Page 3, by inserting after line 28 the
1 45 following:
1 46 <____. "Institutional network" means the system of
1 47 dedicated fibers, coaxial cables, or wires constructed
1 48 and maintained by an incumbent cable provider which is
1 49 reserved and dedicated by the municipality for
1 50 noncommercial purposes.>
2 1 #7. Page 3, by striking lines 33 through 35 and
2 2 inserting the following: <greater than five percent.
2 3 However, if the incumbent cable provider is a>.
2 4 #8. Page 5, line 27, by inserting after the word
2 5 <area> the following: <, and to the incumbent cable
2 6 provider,>.
2 7 #9. Page 5, lines 31 and 32, by striking the words
2 8 <offers or intends to> and inserting the following:
2 9 <will>.
2 10 #10. Page 5, line 33, by inserting after the word
2 11 <municipality> the following: <, and shall not
2 12 provide service without having provided such thirty
2 13 days' notice>.
2 14 #11. Page 6, by striking lines 6 through 18 and
2 15 inserting the following:
2 16 <6. If a competitive cable service provider or a
2 17 competitive video service provider applies for a
2 18 certificate of franchise authority to operate within a
2 19 municipality, the incumbent cable provider may, at its
2 20 discretion, apply for a certificate of franchise
2 21 authority for that same municipality. Such
2 22 application shall be automatically granted on the same
2 23 day as a competitive cable service provider or
2 24 competitive video service provider files a thirty

2 25 days' notice of offering service as required pursuant
2 26 to subsection 4. The franchise agreement with the
2 27 municipality is terminated on the date the board
2 28 issues the certificate of franchise authority to an
2 29 incumbent cable provider. The terms and conditions of
2 30 the certificate of franchise authority shall be the
2 31 same as the terms and conditions of a competitive
2 32 cable service provider or a competitive video service
2 33 provider pursuant to this chapter and shall replace
2 34 the terms and conditions of the franchise agreement
2 35 previously granted by the municipality.>
2 36 #12. Page 6, line 34, by inserting after the words
2 37 <laws and> the following: <nondiscriminatory>.
2 38 #13. Page 8, by striking lines 3 through 11 and
2 39 inserting the following:
2 40 <4. A certificate of franchise authority issued by
2 41 the board is fully transferable to any successor of
2 42 the applicant to which the certificate was initially
2 43 issued. A notice of transfer shall be filed by the
2 44 holder of the certificate of franchise authority with
2 45 the board and the affected municipality and shall be
2 46 effective fourteen business days after submission.
2 47 The notice of transfer shall include the address of
2 48 the successor's principal place of business and the
2 49 names of the successor's principal executive officers.
2 50 The successor shall assume all regulatory rights and
3 1 responsibilities of the holder of the certificate.
3 2 Neither the board nor an affected municipality shall
3 3 have authority to review or require approval of such
3 4 transfer.>
3 5 #14. Page 10, line 15, by inserting after the word
3 6 <services.> the following: <At its election the
3 7 municipality may reasonably request any cable service
3 8 provider or video service provider to make any
3 9 necessary change to the form of any programming,
3 10 furnished for transmission, which shall be charged to
3 11 the municipality, not to exceed the provider's
3 12 incremental costs. The municipality shall have up to
3 13 twelve months to reimburse the cable service provider
3 14 or video service provider.>
3 15 #15. Page 11, by striking lines 20 through 26 and
3 16 inserting the following:
3 17 <b. All cable service providers and video service
3 18 providers shall pay a franchise fee at the same
3 19 percent of gross revenues as had been assessed on the
3 20 incumbent cable provider by the municipality as of
3 21 January 1, 2007, and such percentage shall continue to
3 22 apply for the period of the remaining term of the
3 23 existing franchise agreement with the municipality.
3 24 Upon expiration of the period of the remaining term of
3 25 the agreement with the incumbent cable service
3 26 provider, a municipality may request an increase in
3 27 the franchise fee up to five percent of gross
3 28 revenues.>
3 29 #16. Page 12, line 5, by striking the word <eight>
3 30 and inserting the following: <five>.
3 31 #17. Page 12, by striking lines 12 through 29.
3 32 #18. Page 12, line 35, by inserting after the word
3 33 <municipality> the following: <, even if the
3 34 incumbent cable provider elects to convert to a
3 35 certificate of franchise authority pursuant to section
3 36 477A.2>.
3 37 #19. Page 13, by striking lines 3 through 14 and
3 38 inserting the following:
3 39 <4. a. If an incumbent cable provider is required
3 40 by a franchise agreement as of January 1, 2007, to
3 41 provide institutional network capacity to a
3 42 municipality for use by the municipality for
3 43 noncommercial purposes, the incumbent cable provider
3 44 and any subsequent holder of a certificate of
3 45 franchise authority shall provide support only for the
3 46 existing institutional network on a pro rata basis per
3 47 customer. Any financial support provided for an
3 48 institutional network shall be limited to ongoing
3 49 maintenance and support of the existing institutional
3 50 network. This subsection shall be applicable only to
4 1 a cable service provider's or video service provider's
4 2 first certificate of franchise authority issued under
4 3 this chapter, and shall not apply to any subsequent
4 4 renewals. For the purposes of this subsection,
4 5 maintenance and support shall only include the

4 6 reasonable incremental cost of moves, changes, and
4 7 restoring connectivity of the fiber or coaxial cable
4 8 lines up to a demarcation point at the building.
4 9 b. For purposes of this subsection, the number of
4 10 customers of a cable service provider or video service
4 11 provider shall be determined based on the relative
4 12 number of subscribers in that municipality at the end
4 13 of the prior calendar year as reported to the
4 14 municipality by all incumbent cable providers and
4 15 holders of a certificate of franchise authority. Any
4 16 records showing the number of subscribers shall be
4 17 considered confidential records pursuant to section
4 18 22.7. The incumbent cable provider shall provide to
4 19 the municipality, on an annual basis, the maintenance
4 20 and support costs of the institutional network,
4 21 subject to an independent audit. A municipality
4 22 acting under this subsection shall notify and present
4 23 a bill to competitive cable service providers or
4 24 competitive video service providers for the amount of
4 25 such support on an annual basis, beginning one year
4 26 after issuance of the certificate of franchise
4 27 authority. The annual institutional network support
4 28 shall be due and paid by the providers to the
4 29 municipality in four quarterly payments, not later
4 30 than forty-five days after the close of each quarter.
4 31 The municipality shall reimburse the incumbent cable
4 32 provider for the amounts received from competitive
4 33 cable service providers or competitive video service
4 34 providers.
4 35 c. This subsection shall not apply if the
4 36 incumbent cable service provider is a municipal
4 37 utility providing telecommunications services under
4 38 section 388.10.>
4 39 #20. Page 13, by inserting before line 15 the
4 40 following:
4 41 <5. A franchise fee may be assessed or imposed by
4 42 a municipality without regard to the municipality's
4 43 cost of inspecting, supervising, or otherwise
4 44 regulating the franchise, and the fees collected may
4 45 be credited to the municipality's general fund and
4 46 used for municipal general fund purposes.
4 47 6. To the extent that any amount of franchise fees
4 48 assessed by and paid to a municipality prior to the
4 49 effective date of this Act, pursuant to a franchise
4 50 agreement between a municipality and any person to
5 1 erect, maintain, and operate plants and systems for
5 2 cable television, exceeds the municipality's
5 3 reasonable costs of inspecting, supervising, or
5 4 otherwise regulating the franchise, such amount is
5 5 deemed and declared to be authorized and legally
5 6 assessed by and paid to the municipality.>
5 7 #21. Page 13, line 18, by inserting after the
5 8 figure <76.309> the following: <, and shall maintain
5 9 a local or toll-free telephone number for customer
5 10 service contact>.
5 11 #22. Page 14, line 24, by striking the words <four
5 12 thousand> and inserting the following: <two thousand
5 13 five hundred>.
5 14 #23. Page 15, by inserting after line 14 the
5 15 following:
5 16 <Sec. _____. FRANCHISES FOR PROVISION OF CABLE
5 17 SERVICE OR VIDEO SERVICE == SEVERABILITY. If any
5 18 provision of this Act, or its application thereof to
5 19 any person or circumstance is held invalid, the
5 20 invalidity shall not affect other provisions or
5 21 applications of this Act which can be given effect
5 22 without the invalid provision or application, and to
5 23 this end the provisions of this Act are severable as
5 24 provided in section 4.12.>
5 25 #24. By renumbering, relettering, or redesignating
5 26 and correcting internal references as necessary.
5 27 SF 554.H
5 28 rn/jg/25